

# GENERAL ORDER



DISTRICT OF COLUMBIA

Title		
<b>Handling and Accounting for Seized and Forfeited Property</b>		
Topic	Series	Number
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I.	Background	Page 1
II.	Policy	Page 1
III.	Definitions	Page 1
IV.	Regulations	Page 2
V.	Procedures	Page 4
V.A	Reporting Requirements	Page 4
V.B	Processing Seized Property	Page 5
VI.	Roles and Responsibilities	Page 7
VII.	Cross References	Page 11

## I. BACKGROUND

The Metropolitan Police Department (MPD) comes into contact with property that may be subject to seizure and civil forfeiture on a regular basis. The Department has the responsibility of handling, accounting for, and disposing of seized and forfeited property in accordance with applicable laws and regulations.

The purpose of this order is to establish the procedures for reporting, processing, securing, and disposing of all seized and forfeited property in compliance with applicable District of Columbia (D.C.) and federal laws.

## II. POLICY

The policy of the Metropolitan Police Department (MPD) is to handle all seized and forfeited property coming into the custody of the Department in a manner that is lawful, timely, and maintains the integrity of the property.

## III. DEFINITIONS

When used in this directive, the following term(s) shall have the meanings designated:

1. Forfeiture – Loss of property due to a violation of D.C. and/or federal law.
2. Owner – One who has legal title or right to property.

3. Property – Anything that is owned by a person or entity. Property is divided into two types: “real property,” which is any interest in land, real estate, growing plants or the improvements on land or real estate, and “personal property” (sometimes called “personal”), which is everything else owned by the entity or person.
4. Seizure – Property which is taken into custody as a result of the commission of a crime, which may be subject to forfeiture pursuant to law.

#### IV. REGULATIONS

- A. Members shall seize property in compliance with this order and applicable D.C. and/or federal forfeiture laws, as appropriate.
- B. When seizing currency, members shall only seize currency related to the criminal act (i.e., not personal money), and they must be able to articulate why the currency was seized.
- C. The Department’s requirements for seizing property for civil forfeiture are stricter than the D.C. Official Code.
  1. Prior to seizing vehicles, aircraft, or vessels (conveyances) for civil forfeiture, members shall obtain authorization from their watch commander, district vice lieutenant, or the Asset Forfeiture Unit, Narcotics and Special Investigations Division (NSID), in accordance with the requirements of this order.

NOTE: The Asset Forfeiture Unit may be contacted using the procedures outlined in Part V.A.1 of this order.

2. Below is a list of items that may be seized for civil forfeiture by violation type.
  - a. Drug Offenses
    - (1) For civil forfeiture, the Department requires the quantity of drugs and/or paraphernalia to indicate an intention to sell or distribute, **or** requires the seizing member to obtain **prior authorization** from his/her watch commander, district vice lieutenant, or the Asset Forfeiture Unit in accordance with the requirements of this order.
    - (2) For drug offenses where a person is charged with distribution of a controlled substance or possession with

the intent to distribute (PWID) related to D.C. Official Code § 48-905.02 (Forfeitures), members may seize:

- (a) Vehicles, aircraft, and vessels (conveyances) with **prior authorization** from their watch commander, district vice lieutenant, or the Asset Forfeiture Unit;
  - (b) Currency/negotiable instruments (e.g., checks, money orders, savings bonds); and
  - (c) Real property.
- (3) For drug offenses where a person is charged with possession of a controlled substance related to D.C. Official Code § 48-905.02 (Forfeitures), members may seize:
- (a) Vehicles, aircraft, and vessels (conveyances) with **prior authorization** the Asset Forfeiture Unit; and
  - (b) Currency/negotiable instruments (e.g., checks, money orders, savings bonds) with **prior authorization** from their watch commander, district vice lieutenant, or the Asset Forfeiture Unit.
- (4) For drug paraphernalia offenses related to D.C. Official Code § 48-1104 (Property Subject to Forfeiture), members may seize currency if the quantity of drug paraphernalia indicates the intention to sell. For all other possession of drug paraphernalia (PDP) charges, members may seize currency with the **prior authorization** from their watch commander, district vice lieutenant, or the Asset Forfeiture Unit.
- b. For firearms offenses related to D.C. Official Code § 7-2507.06a (Seizure and forfeiture of conveyances), members may seize vehicles and vessels (conveyances) with **prior authorization** from their watch commander, district vice lieutenant, or the Asset Forfeiture Unit.
- c. For Illegal Dumping Enforcement Act Violations related to D.C. Official Code § 8-901 et. seq. (Illegal Dumping Enforcement), members may seize motorized vehicles with **prior authorization** from the Asset Forfeiture Unit.

- d. For gambling violations related to D.C. Official Code § 22-1705 (Gambling premises; definition; prohibition against maintaining; forfeiture; liens; deposit of moneys in Treasury; penalty; subsequent offenses), members may seize currency.
  - e. For prostitution related violations related to D.C. Official Code § 22-2723 (Property subject to seizure and forfeiture), members may seize:
    - (1) Vehicles, aircraft, and vessels with **prior authorization** from the Asset Forfeiture Unit; and
    - (2) Currency.
  - f. For trademark counterfeiting violations related to D.C. Official Code § 22-902 (Trademark counterfeiting), members may seize any item bearing a counterfeit mark and all personal property, including, but not limited to, any items, objects, tools, machines, equipment, instrumentalities, or vehicles of any kind, employed or used in connection with trademark counterfeiting with **prior authorization** from the Asset Forfeiture Unit.
  - g. For violations where the owner of a motor vehicle knowingly uses or permits the use of the motor vehicle with a counterfeit, stolen, or otherwise fraudulent temporary identification tag related to D.C. Official Code § 50-1501.04 (Unlawful acts; penalty) members may seize vehicles with **prior authorization** from their watch commander, district vice lieutenant, or the Asset Forfeiture Unit.
- D. Vehicles that are forfeited and retained by the Department shall be:
- 1. Considered a part of Fleet Management Branch inventory.
  - 2. Subject to all rules governing the use of Department vehicles including but not limited to General Order 301.1 (Vehicle Operation and Maintenance).
  - 3. Used for official police business only.

## V. PROCEDURES

### A. Reporting Requirements

- 1. Members may contact the Asset Forfeiture Unit (AFU):

- a. Directly Monday through Friday, between 0830 and 1800 hours;  
or
  - b. At all other times by requesting that the Command Information Center (CIC) page the on-call AFU member.
2. Members shall notify the AFU of any of the following prior to the end of their shift:
- a. Any seizure of currency in the amount of \$2,000 or greater.
  - b. Any search warrant executed where records indicate substantial bank deposits, financial holdings, or real estate holdings belonging to the target of the investigation or any other person.
  - c. Any search warrant executed on a private residence (e.g., privately owned house, condominium) where the investigation indicates the residence is one in which drug trafficking or related activity regularly takes place.
  - d. When a member is involved in an on-going criminal investigation and it is determined that probable cause for the seizure of assets exists.
  - e. When property is seized as a result of the participation of members in any joint MPD/federal investigative effort, regardless of the level of participation.
  - f. For any case involving the potential seizure of property for civil forfeiture where the member has questions or needs guidance.
3. Members shall forward copies of the paperwork related to civil forfeiture cases [e.g., PD Forms 163 (Prosecution Report), PD Forms 854, PD Forms 81 (Property Record)] to AFU.

#### B. Processing Seized Property

1. Members shall prepare a PD Form 81, and other applicable MPD forms pertaining to the seizure of property (e.g., PD Form 163, PD Form 854) and include the following information:
  - a. The justification for the seizure of property, and the specific violation supporting the "forfeiture" classification.

- b. A statement on the PD Form 81 outlining the circumstances surrounding the seizure of the property and, if applicable, the name and rank of the watch commander or AFU member contacted or the name of the district vice lieutenant.
- c. The exact location of any seizure and/or arrest.
- d. A clear description of the relationship between the seized property and the violation for which the suspect was charged.
- e. The location where the property was found (e.g., shirt, pants, under the bed, trunk of the car); and exact amount(s) and location(s) of any specified currency.
- f. The owner for each piece of property, if known.
- g. A separate item number for each identifiable item of property, by serial number or other distinct description.

NOTE: Multiple items of property with identical descriptions seized from the same location may be reported under one item number, with the total number of items clearly written.

NOTE: It is important for members to pay special attention to detail. The omission of relevant and necessary information from the property record may prevent or delay a forfeiture action, which in turn, may result in mandatory return of the property to the owner.

- 2. If multiple items, which require separate PD Form 81s, are seized at the same time, a notation shall be made beside the seized item on the property book, noting the number of the PD Form 81 on which the property is listed (e.g. "1 of 2", "2 of 2").
- 3. Members shall ensure similar property (e.g., currency) seized from different locations (e.g., different locations within a residence) is not combined but is assigned individual item numbers for each location on the PD Form 81.
- 4. Seized money which is determined to be "MPD Pre-Recorded Funds" shall be:
  - a. Classified as evidence.
  - b. Separated from the defendant's personal money.

- c. Documented on the PD Forms 81, 854 and 163:
  - (1) Listing the amount of money recovered;
  - (2) Listing the particular location where the money was recovered (e.g. defendant's left pants pocket, drivers seat); and
  - (3) Identifying MPD as the owner of the funds and the person the funds were recovered from as the defendant.

## **VI. ROLES AND RESPONSIBILITIES**

- A. The Asset Forfeiture Unit shall be responsible for:
  - 1. Coordinating and administering the Department's asset removal program.
  - 2. Assisting Department personnel in the investigation and seizure of assets belonging to violators of the Uniform Controlled Substance Act, or any other applicable D.C. or federal law.
  - 3. Coordinating all asset seizure and forfeiture investigations conducted by Department personnel in conjunction with federal agencies.
  - 4. Establishing a tracking system for asset seizure cases developed from joint investigations with federal agencies to ensure that proceeds derived from the investigation(s) are shared in accordance with sharing privileges granted by federal or other local government jurisdiction.
  - 5. Serving as the MPD liaison for the exchange of information with other government agencies in those asset seizure investigations where inter-agency cooperation is necessary, or where prosecution is beyond the jurisdiction of the D.C., but may fall within federal or other local government jurisdiction.
  - 6. Assisting the Metropolitan Police Academy with specific training for MPD members in the utilization of asset seizure law, practice, procedure, and removal techniques.
  - 7. Preparing all Department applications for transfer of federally forfeited property to ensure that:
    - a. Applications are completed in a timely manner; and

- b. The proceeds are received by the District of Columbia in accordance with the federal sharing guidelines.
    8. Preparing and obtaining affidavits in support of seizure warrants.
- B. The Commanding Official, Evidence Control Branch, shall be responsible for:
  1. Providing an estimate for the value of seized property consistent with Branch procedures.
  2. Maintaining a file of all Default Decrees of Condemnation and similar administrative forfeiture documents for vehicles that have been forfeited to D.C. and for all property that has been processed for libel or forfeiture.
  3. Ensuring that all noticing documentation is maintained in accordance with retention regulations.
  4. By the 10<sup>th</sup> of each month, forwarding through the chain of command to the Commander, NSID, and the Director, Fleet Management Branch, a list of vehicles that have been forfeited to the D.C. government or MPD during the previous month.
  5. Serving as a liaison to the Asset Forfeiture Unit, and the Civil Enforcement Section, Office of the Attorney General, regarding the seizure of property pursuant to this order.
  6. Following the procedures outlined in 6A DCMR §§ 804 through 810, for handling all seized property coming into the custody of the MPD.
  7. Coordinating with the D.C. Department of General Services (DGS) to establish procedures for converting forfeited property to official use by other agencies of the D.C. Government, pursuant to 6A DCMR § 810.
  8. Depositing the proceeds from all forfeited property in accordance with GO-RAR-404.01 (Deposits with the D.C. Treasurer) in consultation with the Chief Financial Officer (CFO), Office of Finance and Budget, in the appropriate account, as provided by law.
  9. Identifying and reporting the expenses to the CFO, Office of Finance and Budget, of the forfeiture process (e.g., direct expenses of mailings, advertising, storage, appraisals).
  10. Determining the priority and availability of all property to be placed in official use by the Department.



11. Forwarding a copy of all PD Forms 81, 854, and 163 regarding seized property pending forfeiture for any District of Columbia or Federal forfeiture law violations, to the Asset Forfeiture Unit for review, prior to being forwarded to the Civil Enforcement Section, Office of the Attorney General.

C. The Commanding Official, NSID, shall be responsible for:

1. Appointing a liaison to the MPD Property Clerk and the Civil Enforcement Section, Office of the Attorney General, for the purpose of making the following reviews and determinations:
  - a. When additional seizures might be appropriate in connection with a particular arrest or seizure.
  - b. When to initiate a financial investigation for the purpose of ascertaining the existence of potentially forfeitable property.
2. Ensuring determinations are made to transfer property to the custody of Federal Authorities or to refer potential seizures for joint action by Federal and District authorities. When making these determinations, the following factors shall be considered:
  - a. Whether joint investigations by D.C., federal, or other local law enforcement agencies were or may be involved.
  - b. Whether property subject to seizure is located in other jurisdictions.
  - c. Whether the underlying criminal proceedings are prosecuted under federal or D.C. law.
  - d. The relationship of federal authorities to past cases involving the same defendant or potential co-defendants.
  - e. The comparative effectiveness of a joint seizure effort.
  - f. Any other factors which would tend to improve or enhance cooperation and efficiency between D.C. and federal authorities.
3. Ensuring that PD Forms 81, 854, and 163 prepared as a result of property seizures for violations of any District of Columbia or Federal laws are reviewed, in order to:

- a. Ensure that all required reports are complete and contain sufficient information to support a request for forfeiture; and
    - b. Make recommendations as to the forfeiture of seized property.
  4. Recommending to the Director, Evidence Control Branch, and the Director, Fleet Management Division, which forfeited vehicles shall be placed in service and used by members of the MPD.
  5. Recommending the assignment of other vehicles obtained through the asset seizure and forfeiture program.
- D. The Director, Fleet Management Branch, shall be responsible for:
1. Maintaining a current list of all forfeited vehicles determined to be available for use by the Department.
  2. Adding forfeited vehicles to the inventory of fleet vehicles to ensure they receive maintenance according to the procedures outlined in GO-OPS-301.01 (Vehicle Operation and Maintenance).
  3. Ensuring that an inspection of all forfeited vehicles is performed to determine their serviceability and whether they are:
    - a. Usable by the Department;
    - b. Eligible for referral to the DGS; or
    - c. Not serviceable and eligible for disposal by the MPD Property Clerk.
- E. Commanders may request forfeited property, except for vehicles, for official use by submitting a PD Form 160 (Requisition for Supplies and Materials) through the chain of command to the Commanding Official, Evidence Control Branch, with justification for each item requested.
- F. The CFO, Office of Finance and Budget, will ensure that all proceeds from the forfeiture process are managed and allocated pursuant to law.
- G. The Civil Enforcement Section, Office of the Attorney General, will ensure that libel actions against money and other property seized by the Department for violation of any District of Columbia forfeiture laws are prosecuted appropriately (e.g., illegal dumping, firearms violations, narcotics violations, prostitution).

## VII. CROSS REFERENCES

### A. General Orders

1. GO-SPT-301.01 (Vehicle Operation and Maintenance)
2. GO-RAR-404.01 (Depositing Funds with the Treasurer)
3. GO-SPT-601.01 (Recording, Handling and Disposition of Property Coming into the Custody of the Department)

### B. Regulations

1. D.C. Official Code § 7-2507.06a (Seizure and forfeiture of conveyances related to firearms offenses)
2. D.C. Official Code § 8-901 et. seq. (Illegal Dumping Enforcement)
3. D.C. Official Code § 22-902 (Trademark counterfeiting)
4. D.C. Official Code § 22-1705 (Gambling premises; definition; prohibition against maintaining; forfeiture; liens; deposit of moneys in Treasury; penalty; subsequent offenses)
5. D.C. Official Code § 22-2723 (Property subject to seizure and forfeiture)
6. D.C. Official Code § 48-905.02 (Forfeitures)
7. D.C. Official Code § 48-1104 (Property Subject to Forfeiture)
8. D.C. Code § 50-1501.04(b)(2) (Unlawful acts; penalty)
9. 6A DCMR § 804 through 810



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